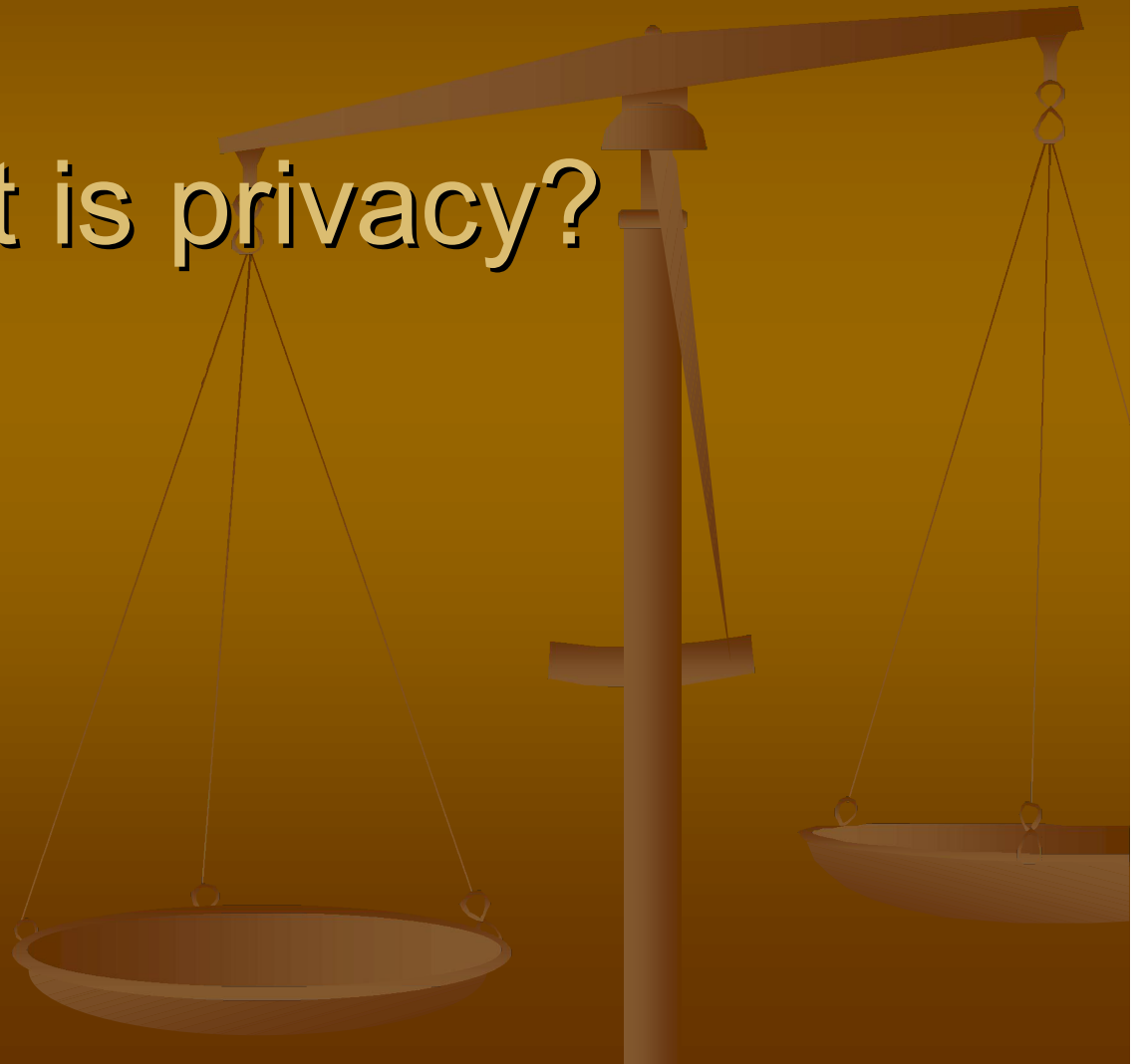




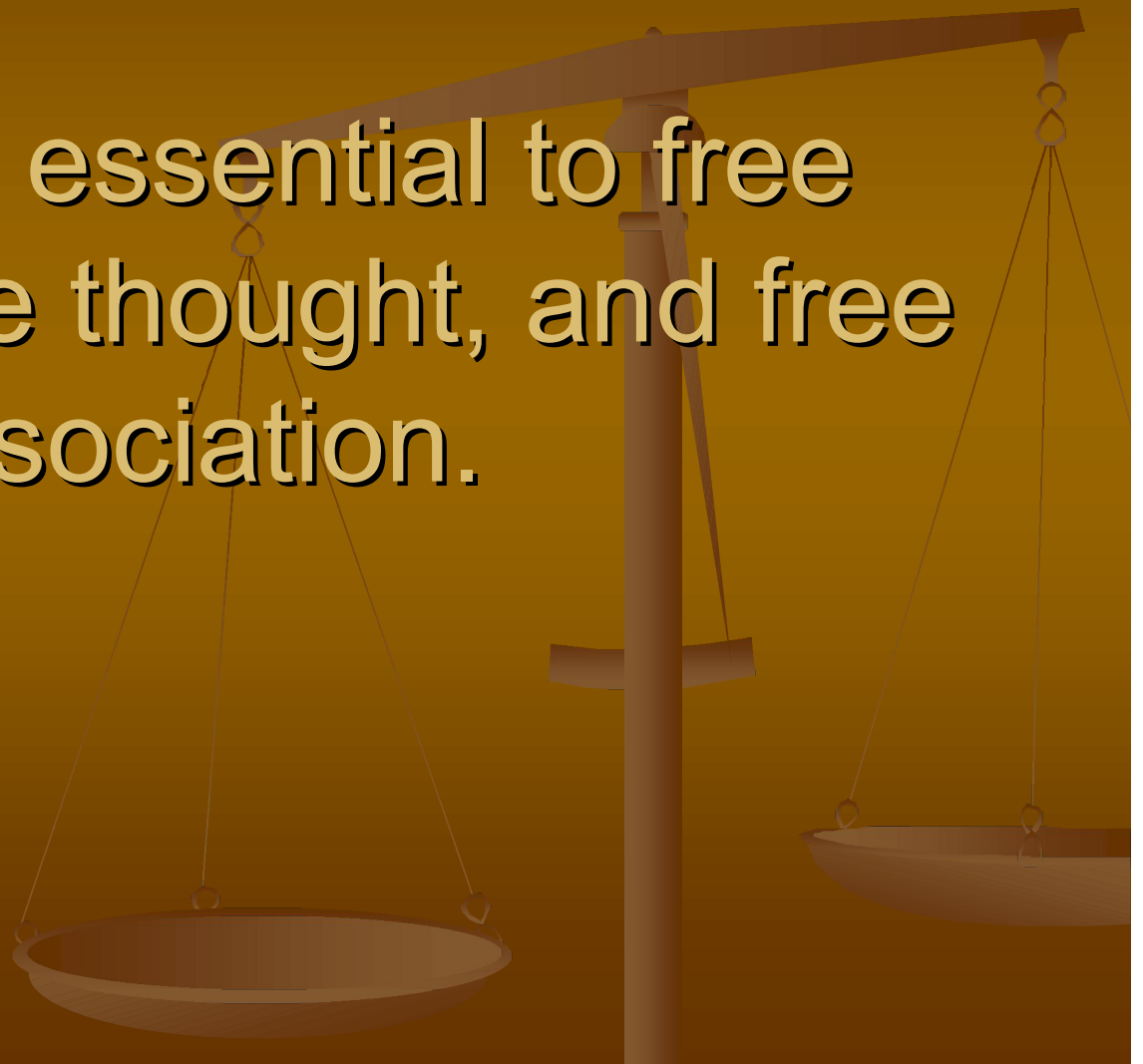
Privacy

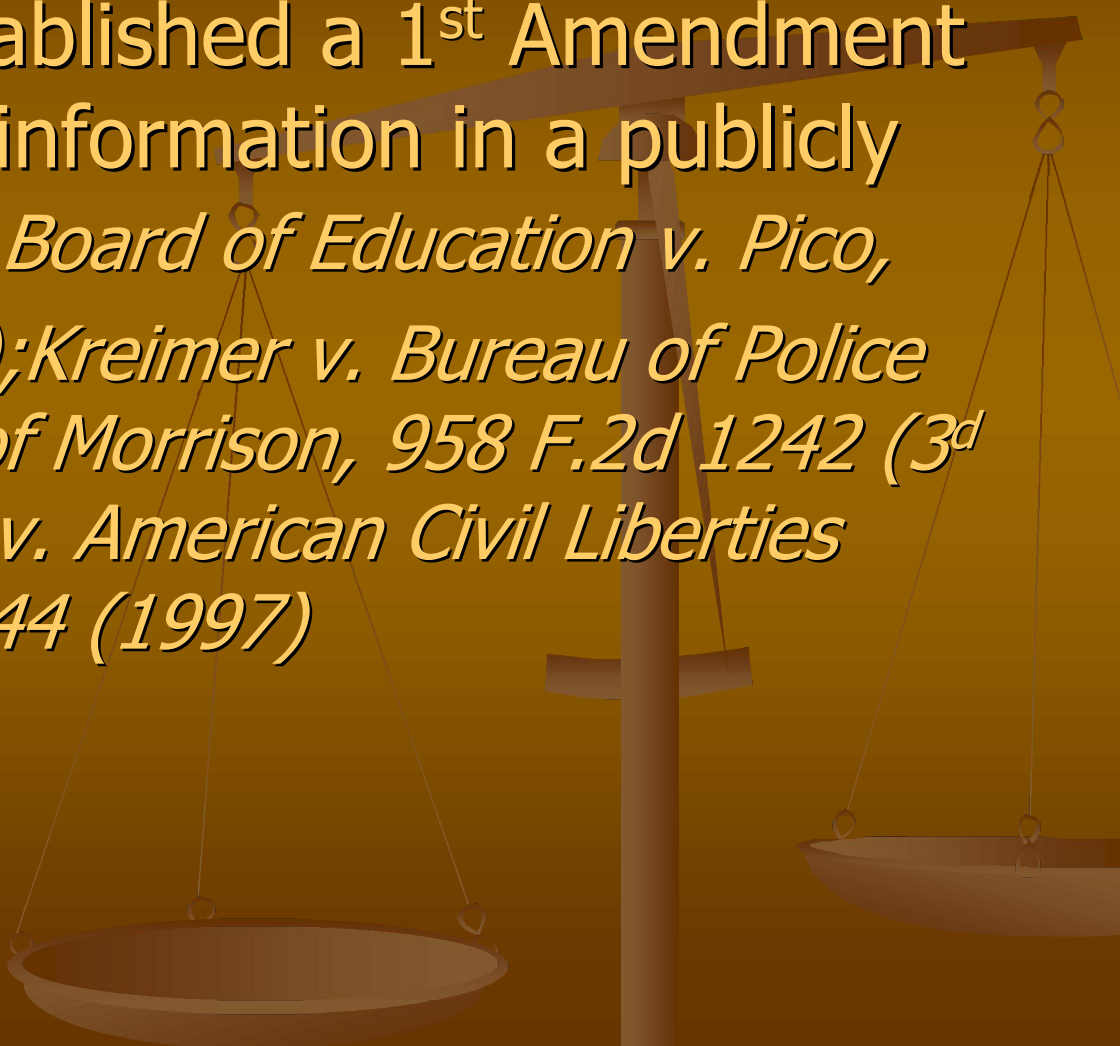
Case law, Policies,
And Best Practices

What is privacy?

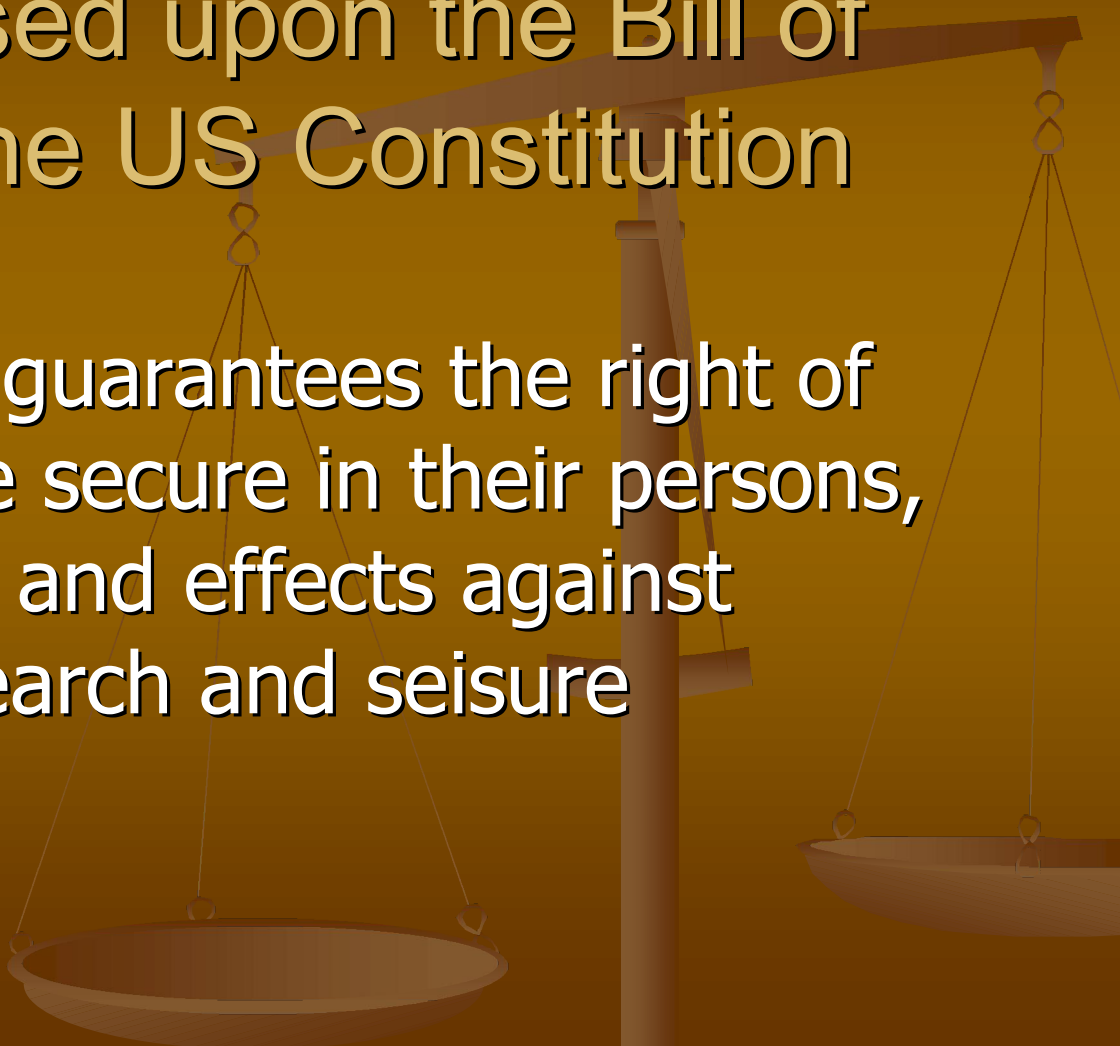


Privacy is essential to free speech, free thought, and free association.



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- Courts have established a 1st Amendment right to receive information in a publicly funded library. *Board of Education v. Pico*, 457 US 853 (1982); *Kreimer v. Bureau of Police for the township of Morrison*, 958 F.2d 1242 (3^d Cir 1992) & *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997)

Courts have upheld the right to privacy based upon the Bill of Rights of the US Constitution

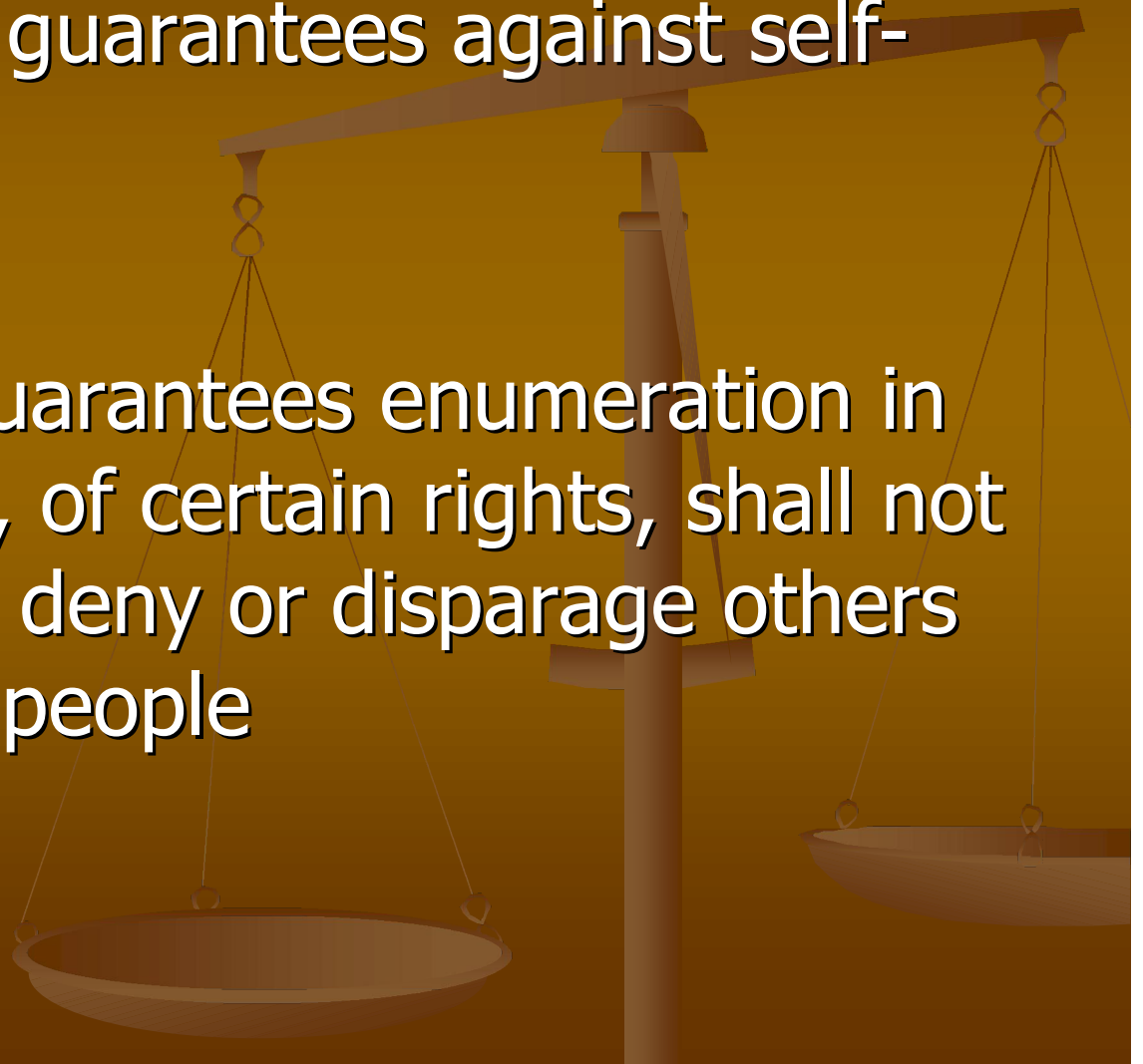


- 4th Amendment guarantees the right of the people to be secure in their persons, papers, houses, and effects against unreasonable search and seizure

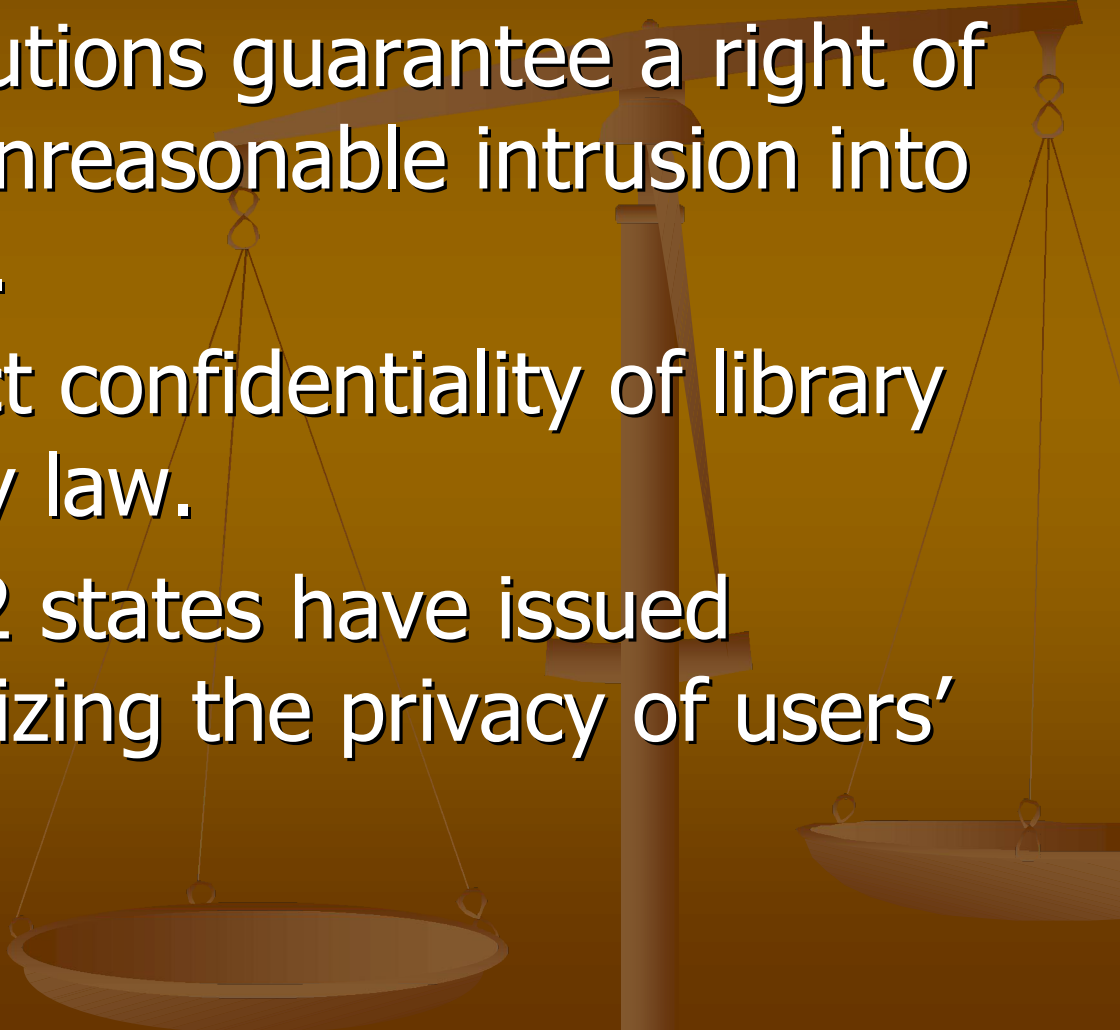
U.S. Constitution

- 5th Amendment guarantees against self-incrimination.

9th Amendment guarantees enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people

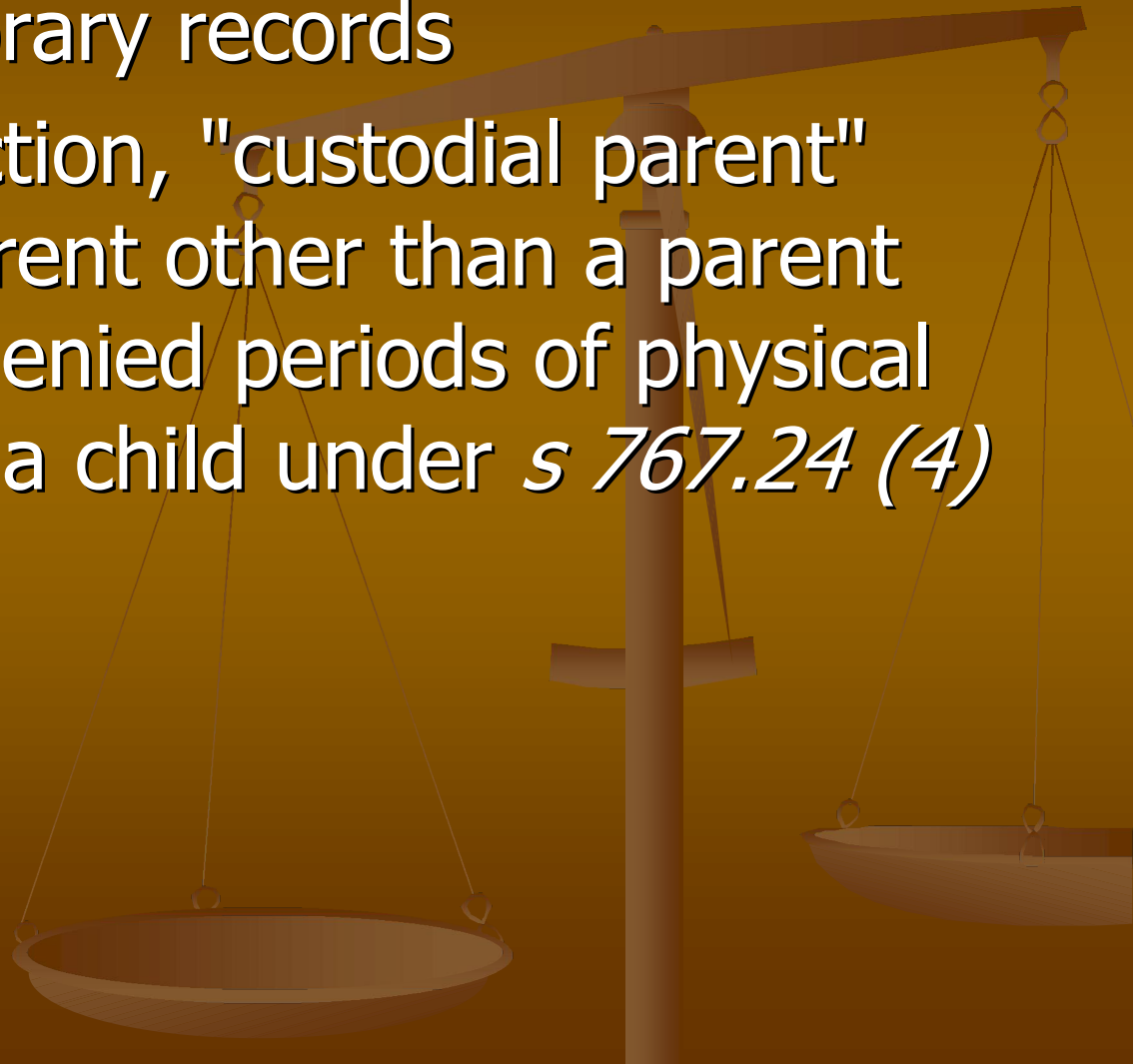


Many states provide guarantees of privacy in their constitutions and statutes.

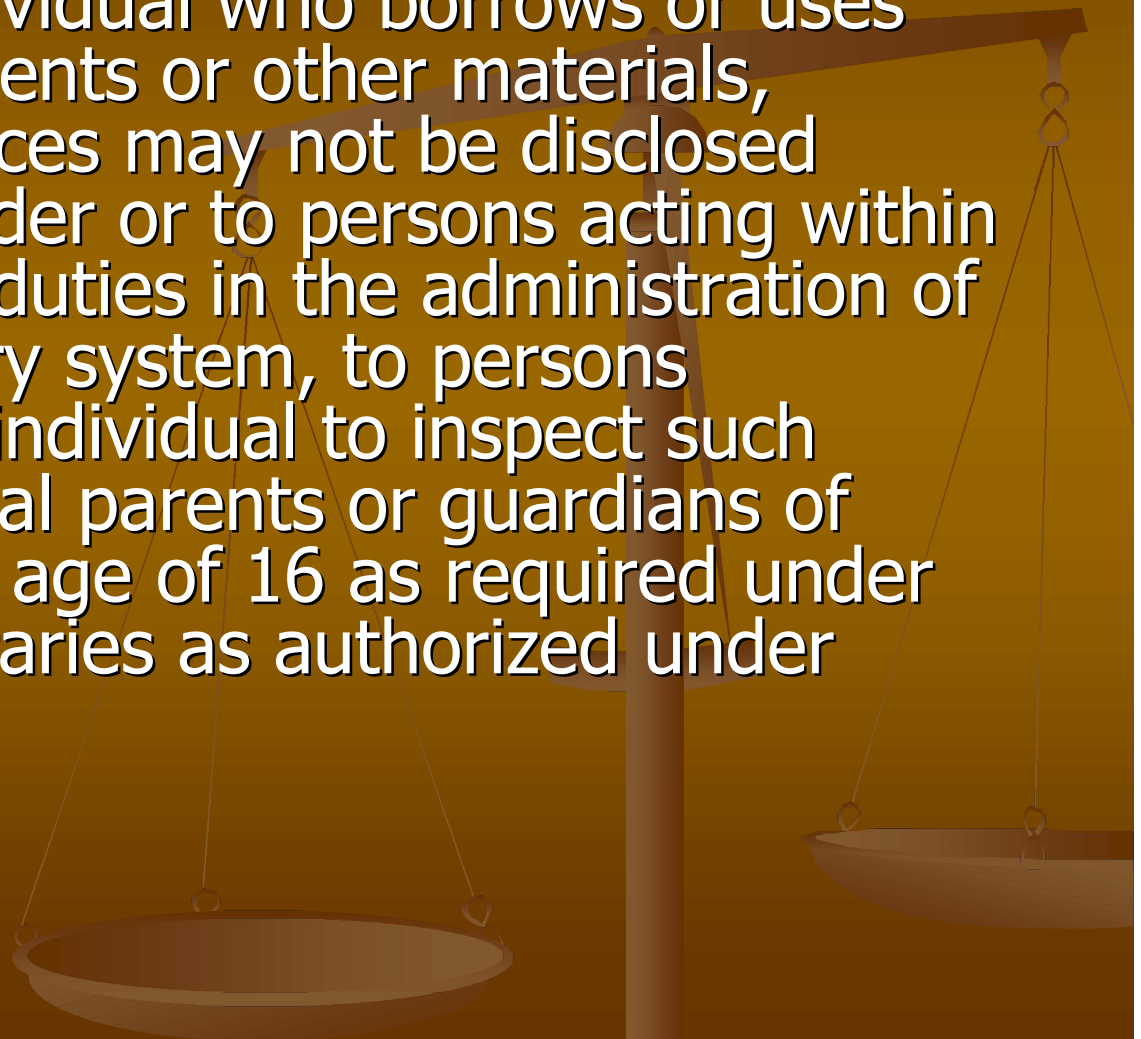
- 10 state constitutions guarantee a right of privacy or bar unreasonable intrusion into citizen's privacy.
 - 48 states protect confidentiality of library users records by law.
 - The remaining 2 states have issued opinions recognizing the privacy of users' library records.
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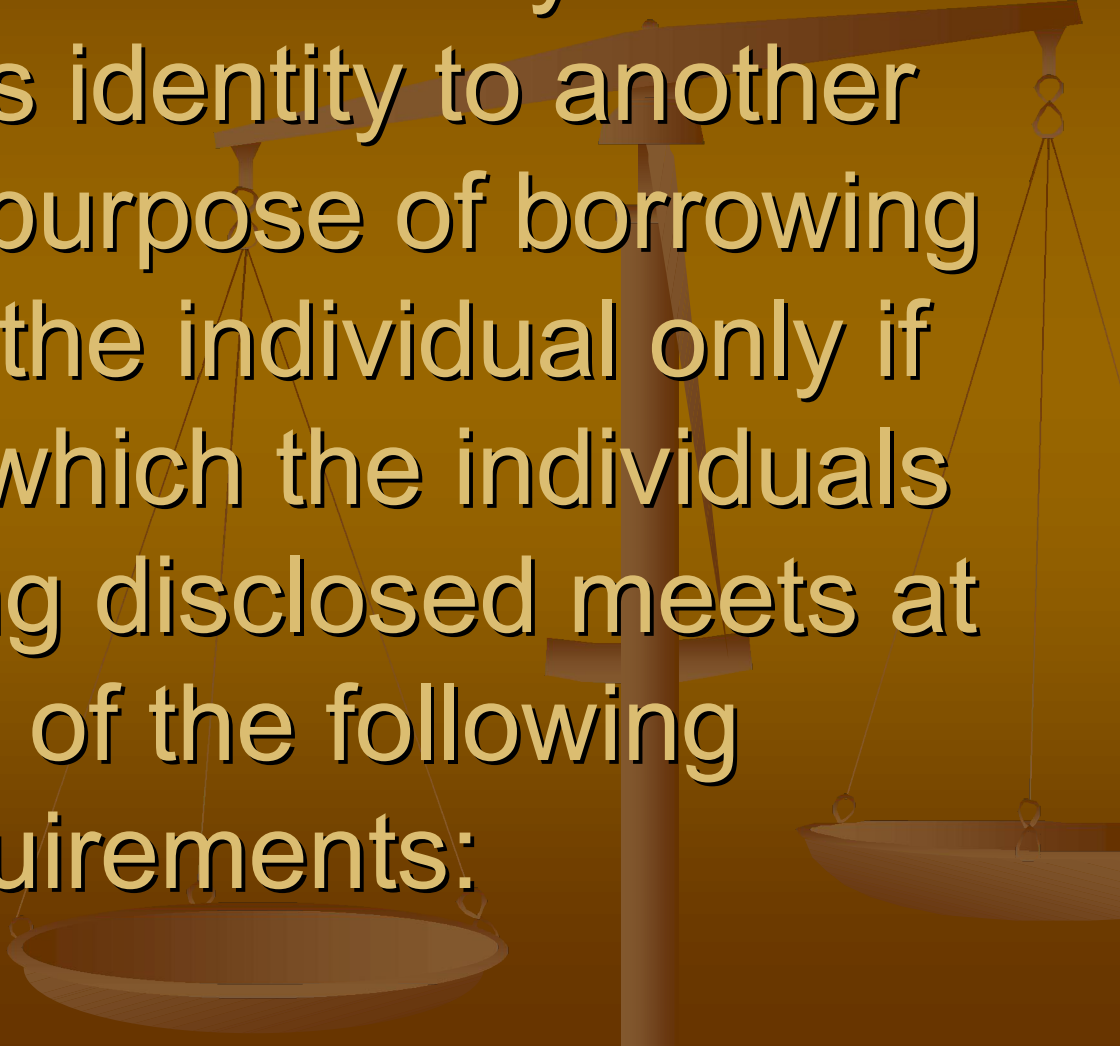
Wis. Stat. § 43.30 (2004)

- 43.30. Public library records
- (1b) In this section, "custodial parent" includes any parent other than a parent who has been denied periods of physical placement with a child under *s 767.24 (4)*

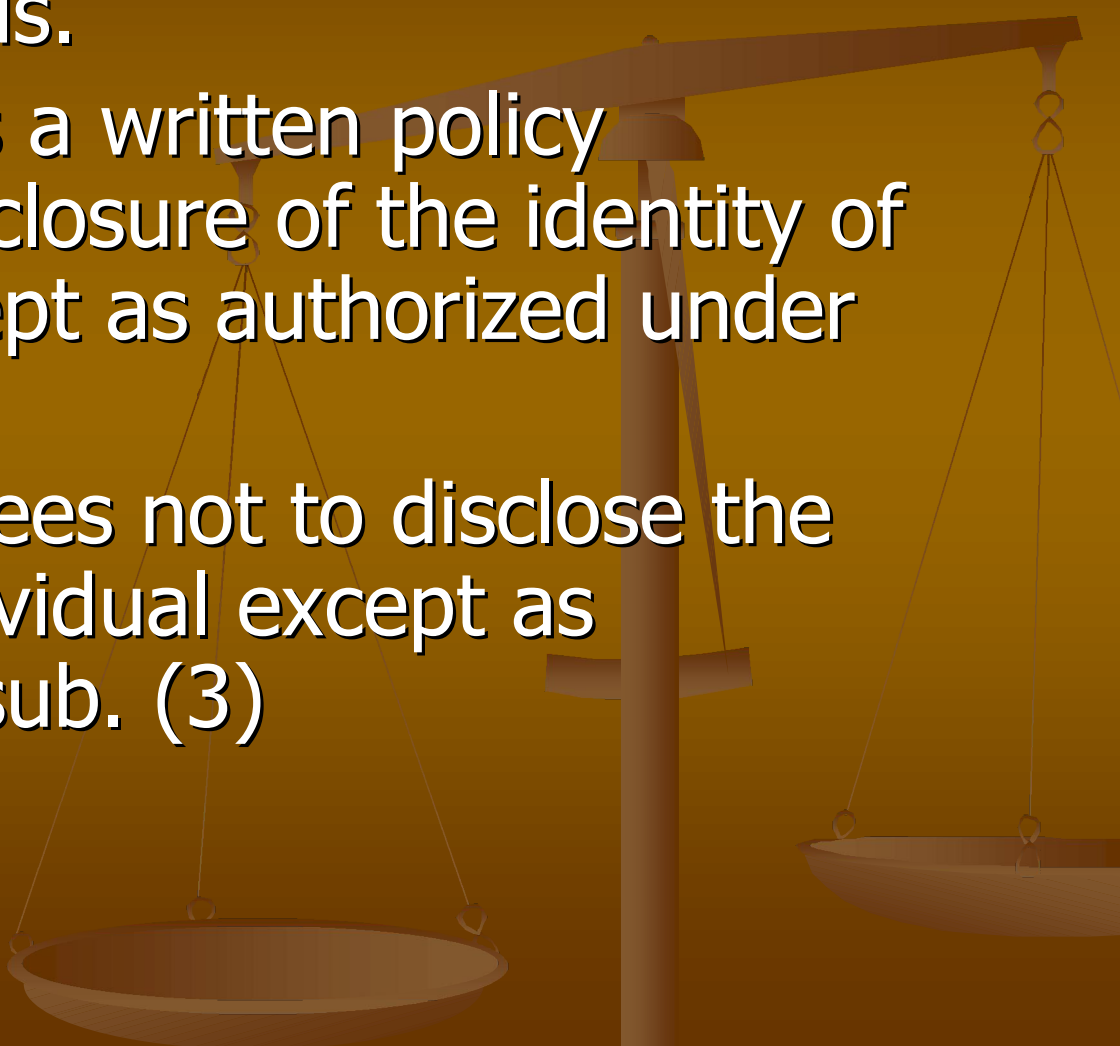


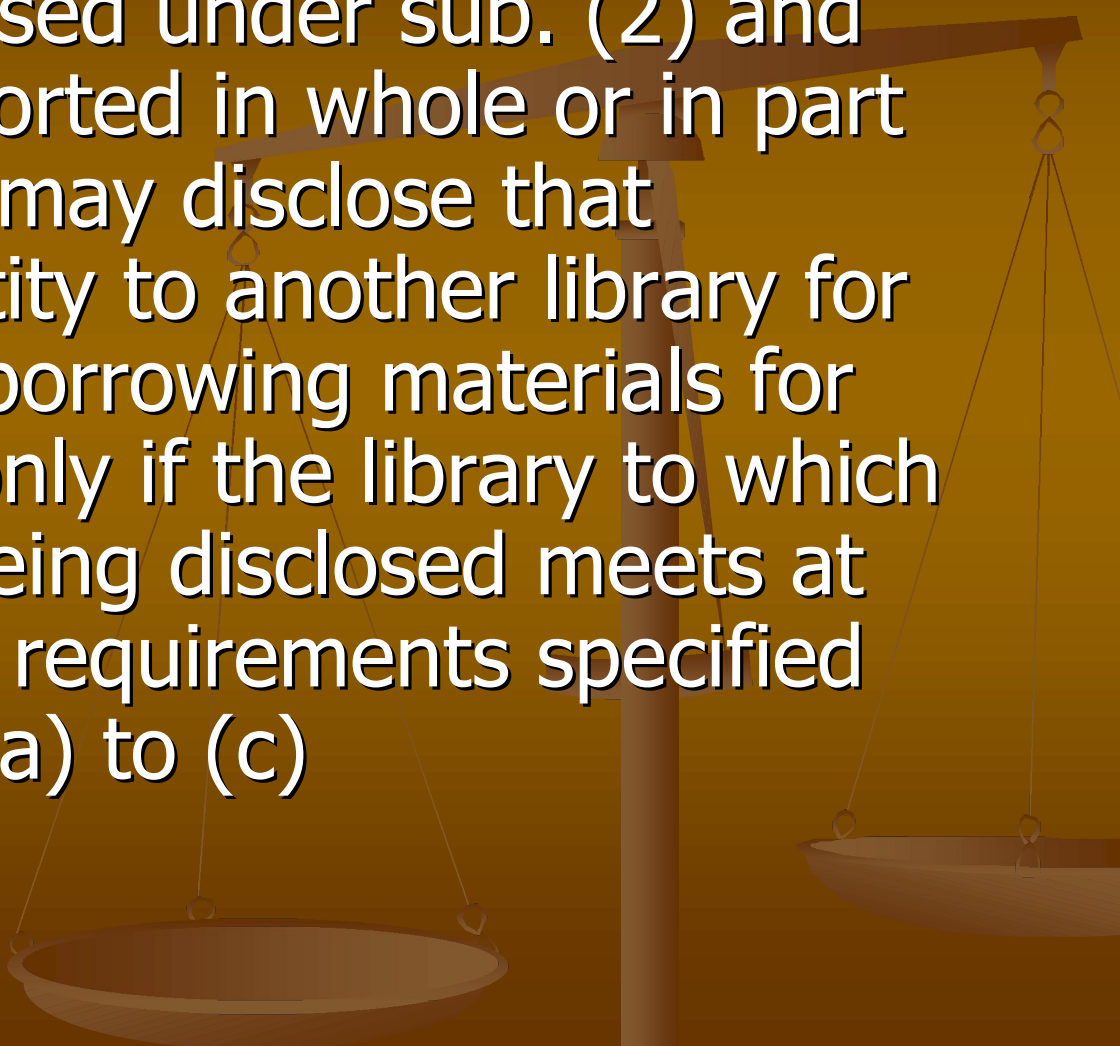
- (1m) Records of any library which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library's documents or other materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 as required under sub. (4) , or to libraries as authorized under subs. (2) and (3)





(2) A library supported in whole or in part by public funds may disclose an individual's identity to another library for the purpose of borrowing materials for the individual only if the library to which the individual's identity is being disclosed meets at least one of the following requirements:

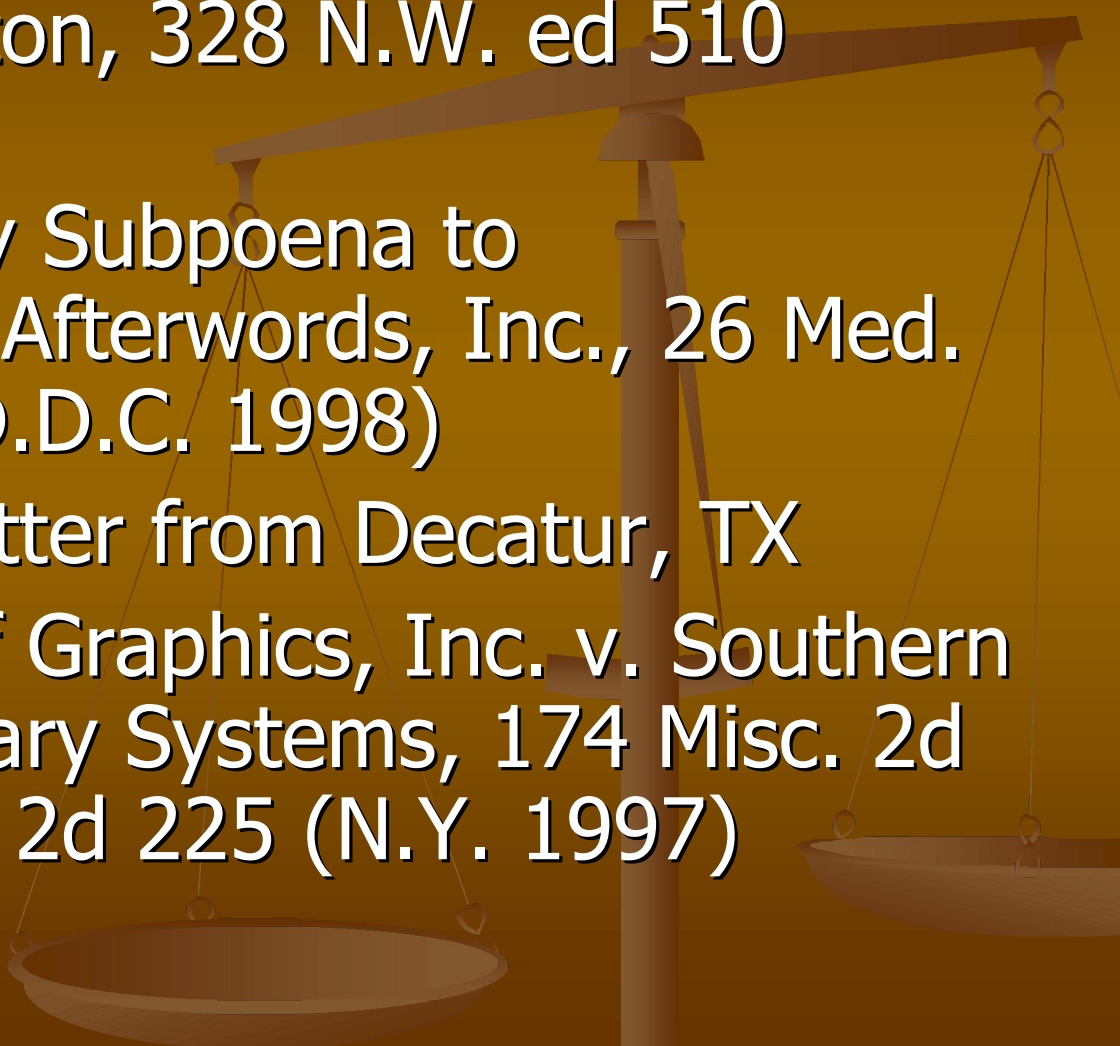
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- (a) The library is supported in whole or in part by public funds.
 - (b) The library has a written policy prohibiting the disclosure of the identity of the individual except as authorized under sub. (3)
 - (c) The library agrees not to disclose the identity of the individual except as authorized under sub. (3)

- 
- (3) A library to which an individual's identity is disclosed under sub. (2) and that is not supported in whole or in part by public funds may disclose that individual's identity to another library for the purpose of borrowing materials for that individual only if the library to which the identity is being disclosed meets at least one of the requirements specified under sub. (2) (a) to (c)

Case Law: 1st Amendment

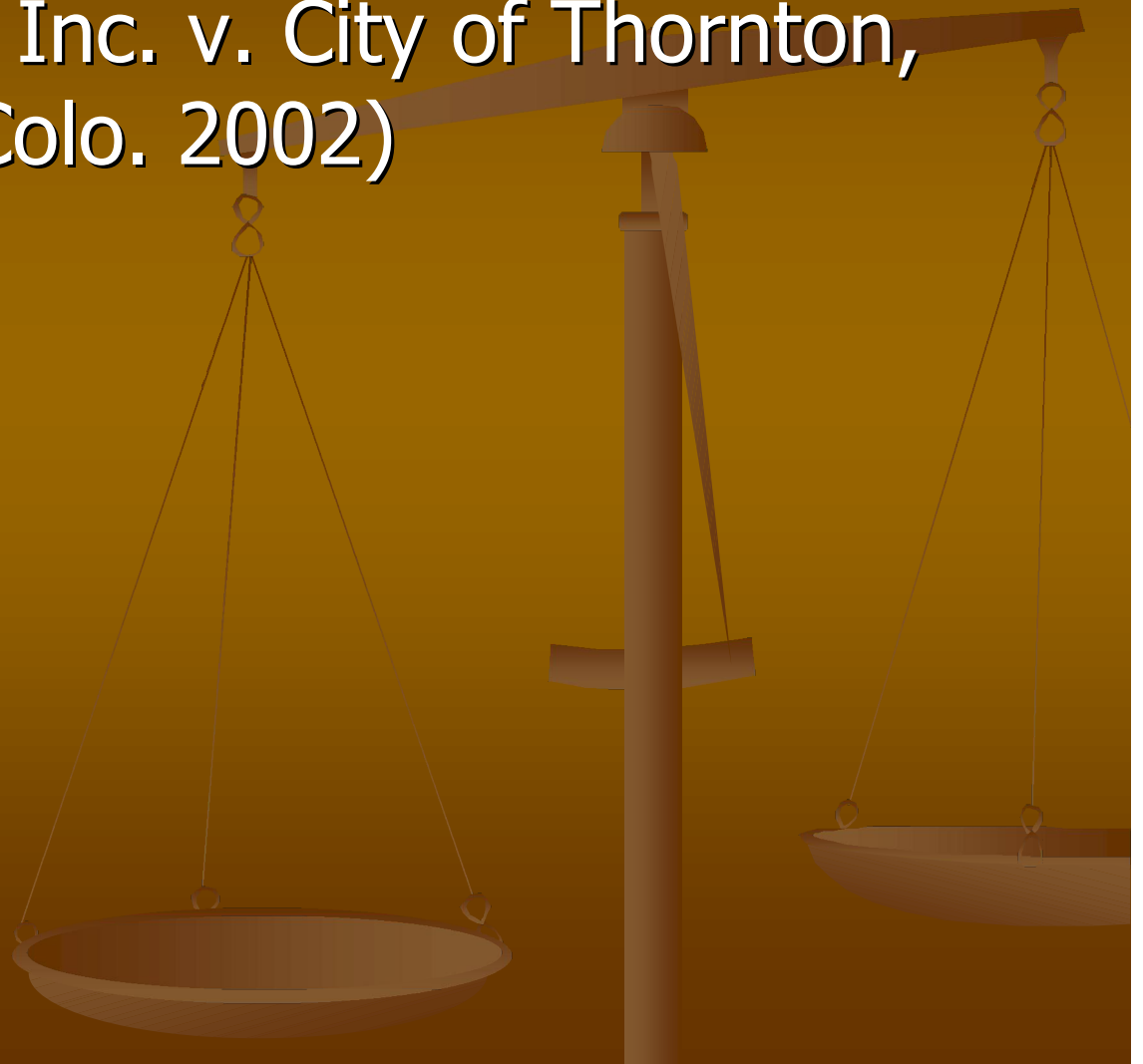
- Branzburg v. Hayes, 408 U.S. 665 (1972)
- United States Enterprises, 498 U.S. 292 (1991)
- Reno v. ACLU U.S. 666 (1997); Stanley v. Georgia, 394 U.S. 557 (1969) ; Lamont v. Postmaster General, 381 U.S. 301 (1965); NAACP v. Alabama ex rel Patterson, 357 U.S. 449 (1958); Griswold v. Connecticut, 381 U.S. 479 (1965)

Library/Bookstore Cases

- Brown v. Johnston, 328 N.W. 2d 510 (Iowa 1983)
 - In re Grand Jury Subpoena to Kramerbooks & Afterwords, Inc., 26 Med. L. Rptr. 1599 (D.D.C. 1998)
 - Slip Opinion: Letter from Decatur, TX
 - In the matter of Graphics, Inc. v. Southern Adirondack Library Systems, 174 Misc. 2d 291, 664 N.Y.S. 2d 225 (N.Y. 1997)
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Bookstore Case:

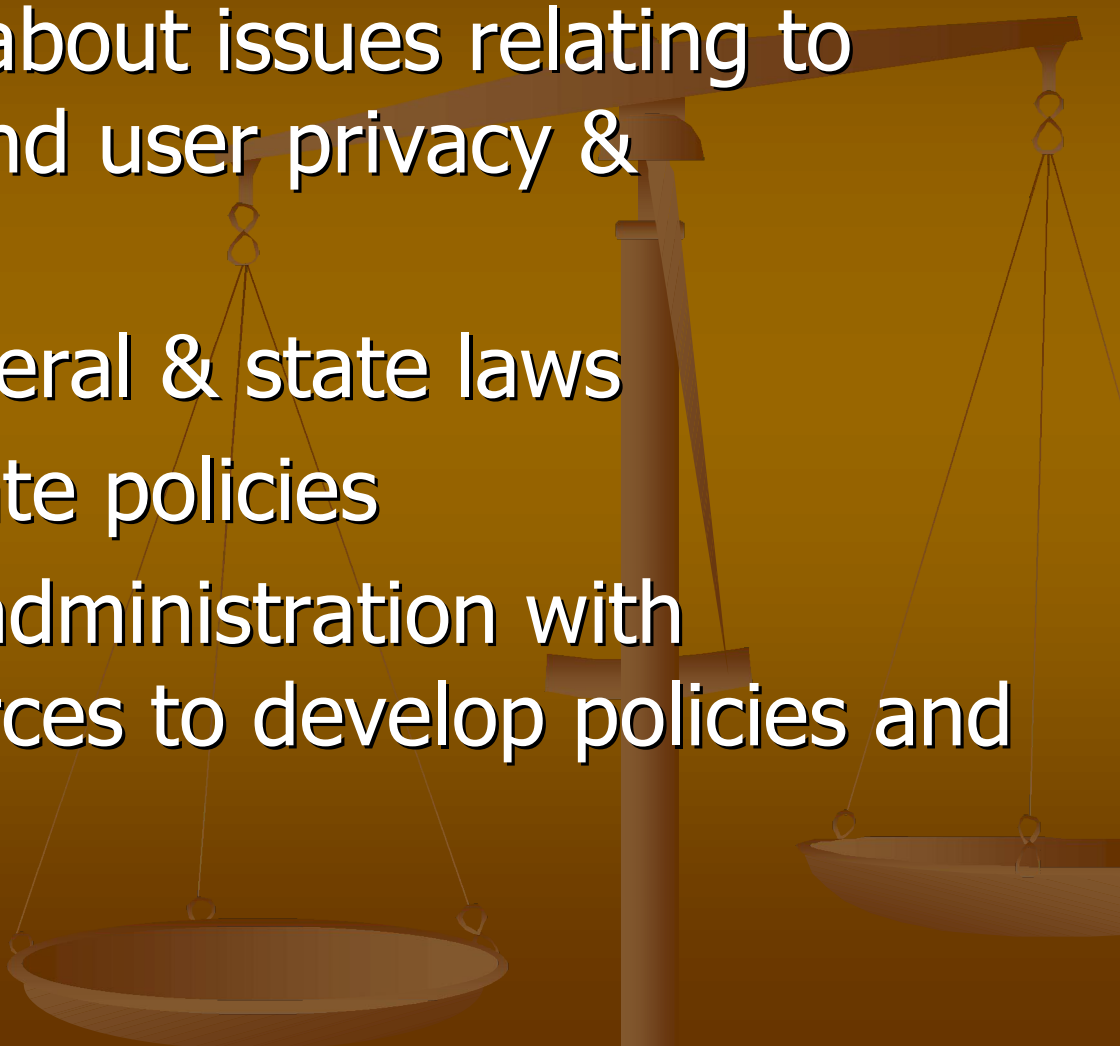
- Tattered Cover, Inc. v. City of Thornton, 44 P.3d 1044 (Colo. 2002)

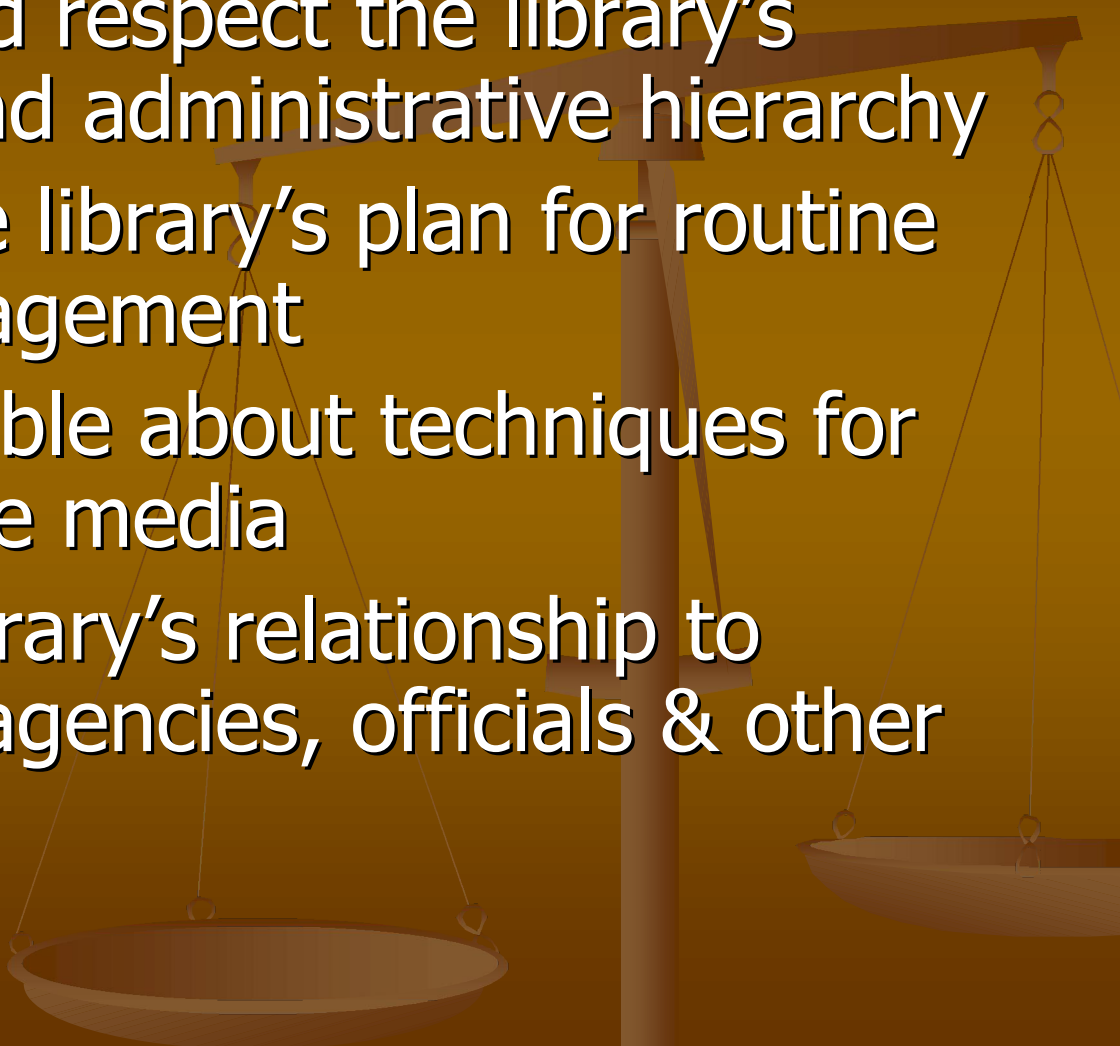


Best Practices



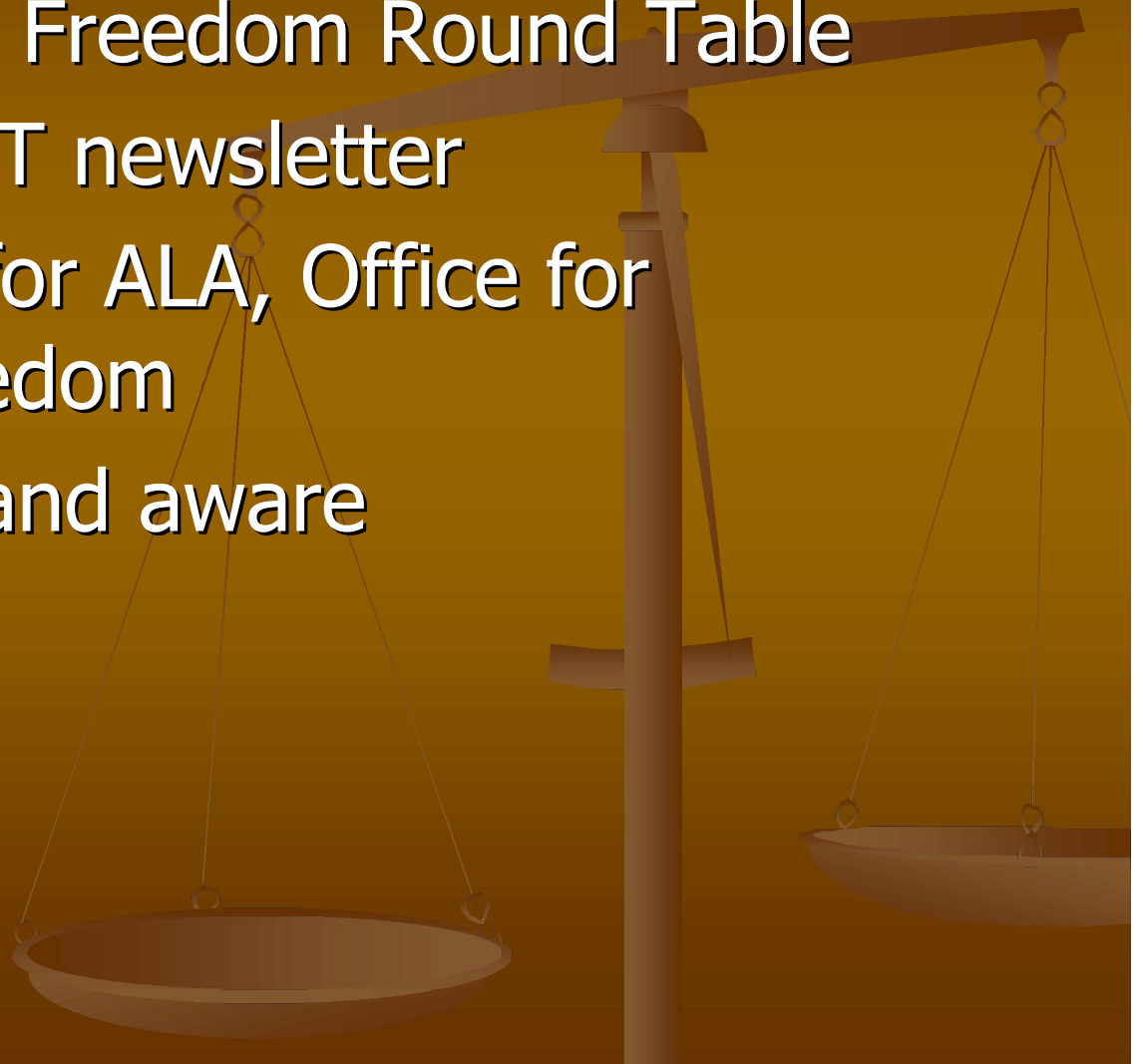
Responsibilities of Governing Bodies & Policy Makers

- Keep informed about issues relating to library patron and user privacy & confidentiality
 - Be aware of federal & state laws
 - Adopt appropriate policies
 - Provide library administration with sufficient resources to develop policies and train staff
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- Understand and respect the library's organization and administrative hierarchy
 - Understand the library's plan for routine and crisis management
 - Be knowledgeable about techniques for dealing with the media
 - Be aware of library's relationship to governmental agencies, officials & other organizations

Stay Informed

- Join Intellectual Freedom Round Table
- Receive the IFRT newsletter
- Utilize Toolkits for ALA, Office for Intellectual Freedom
- Become active and aware
- Be an advocate



Thank you.

